

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

JEFFREY D. LEISER,

Plaintiff,

ORDER

v.

BELINDA SCHRUBBE, R.N., DR. CHARLES
LARSON, M.D., DR. DEBBE LEMKE, M.D.,
DR. PAUL SUMNICHT, M.D., CYNTHIA
THORPE, MARK JENSEN, R.N.,
SANDY JACKSON, R.N.,
SERGEANT DONALD VANDERGALIEN,
TONIA ROZMARYNOSKI and OFFICER GRASE,

11-cv-254-slc

Defendants.

The United States Marshal's office has filed a "Process Receipt and Return" form showing that it has been unable to serve plaintiff's complaint on defendant VanderGalien. According to the notation on the form, the deputy marshal attempted to locate defendant VanderGalien at his last known address in Wautoma, Wisconsin, however, the home was vacant and for sale. The deputy marshal then checked with the Postmaster in Wautoma, who did not have a forwarding address for defendant VanderGalien. In addition, the marshal searched online for an alternate address, but was unsuccessful.

I conclude that the United States Marshal has made a reasonable effort to locate defendant Schmidt and has been unsuccessful. *Sellers v. United States*, 902 F.2d 598, 602 (7th Cir. 1990) (once defendant is identified, marshal must make reasonable effort to obtain current address).

A plaintiff cannot maintain a lawsuit against a defendant such as VanderGalien who has not received notice of the claim against him and therefore is unable to defend against allegations of wrongdoing. Instead, the action must be dismissed as to defendant VanderGalien, without

prejudice to plaintiff's filing a new action against him at some future time if plaintiff is able to locate VanderGalien to serve him with his complaint.

ORDER

IT IS ORDERED that defendant Donald VanderGalien is DISMISSED from this action, without prejudice to plaintiff's filing a lawsuit against him sometime in the future.

Entered this 26th day of September, 2011.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge